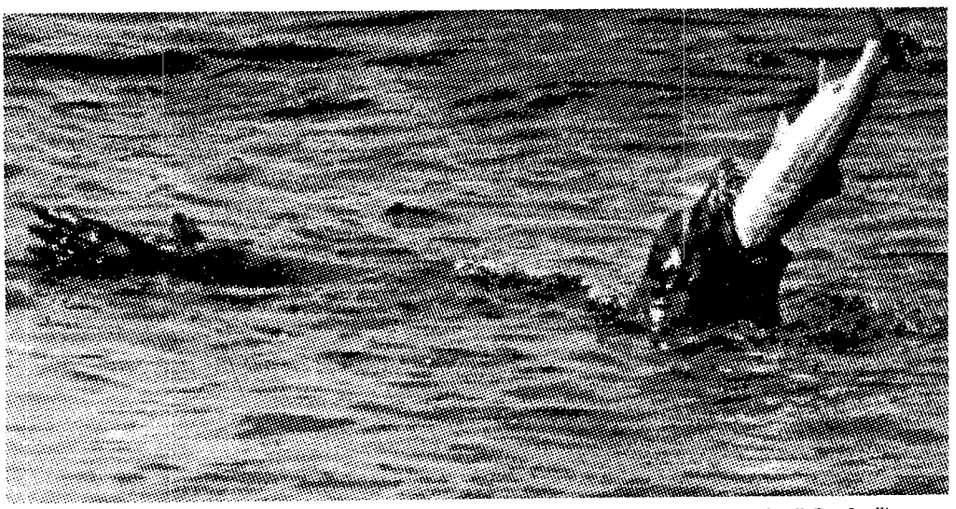
MMPA Bulletin

NMFS Office of Protected Resources *February, 1995*

Washington State Request to Remove Sea Lions at Ballard Locks Has Been Approved

On January 5, 1995, the National Marine Fisheries Service (NMFS) approved, with conditions, a Washington state request to lethally remove California sea lions preying on the steelhead run that passes through Seattle's Ballard Locks to spawn. This decision was made in order to protect Washington state's severely depleted winter-run stock of steelhead from extinction. The returning steelhead, whose numbers have fallen drastically in the past decade, are under consideration for listing under the Endangered Species Act.



Grant M. Haller, Seattle Post-Intelligencer

In a letter to the state's Department of Fish and Wildlife, NMFS outlined strict conditions recommended, in part, by a federally convened task force of scientists, environmentalists, and fishery organizations under which the sea lions can be captured and held, and, as a last resort and only in certain cases, killed under new provisions of the Marine Mammal Protection Act (MMPA) Amendments of 1994.

Before sea lions can be lethally removed, the state, with oversight from NMFS, must ensure that all "feasible and practical" non-lethal removal methods have been exhausted. For example, the state must try to prevent the sea lions from approaching the Ballard Locks using special sound generating devices that create an "acoustic barrier". In addition, the state must try to capture and find temporary holding facilities for sea lions identified as preying on steelhead. Also, before any removal decision, a sea lion would have to be individually identified as preying on steelhead and the overall sea lion predation rate would have to exceed ten percent of the steelhead run during a seven-day period.

In past years, NMFS and the state of Washington have tried a range of non-lethal means to control California sea lion predation, including capturing and relocating the sea lions, installing barriers and modifying water flow at the locks, and trying to drive the sea lions away from the locks by using rubber-tipped arrows and firecrackers. Because of the ineffectiveness of these measures, and recent changes to the MMPA allowing states to request that NMFS convene task forces to make recommendations regarding "nuisance" pinniped situations, Washington state officials last July asked NMFS for permission to lethally remove sea lions from Ballard Locks.

Washington state's population of California sea lions has grown from occasional sightings in the 1970's to 400-500 animals currently. Throughout its range, the California sea lion population is growing at a rate of about 10 percent annually and now numbers over 100,000 animals.

Since the announcement of NMFS' decision, several events have brought further attention to the Ballard Locks/sea lion situation. The Muckleshoot tribe of Washington has offered to accept those sea lions earmarked for removal. The Sea Shepherd Society has offered to transport the sea lions to other sites to prevent the lethal removals. To date, one sea lion has been captured and is in captivity at a local aquarium.

For more information, contact Ken Hollingshead, (310) 713-2055, or Joe Scordino, NMFS Northwest Region, (206) 526-6143.

National Marine Fisheries Service, Silver Spring, MD 20910

From the Editors ...

Thank you for the overwhelming positive feedback on the MMPA Bulletin. We hope it continues to provide our readers with timely and informative updates on the activities of the Office of Protected Resources.

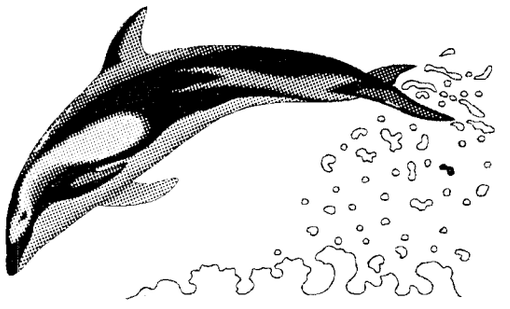
If there are articles in the Bulletin that you would like to reproduce for your organization's newsletter, please contact us and we will send you an electronic copy of the text. Or, you can download the Bulletin from the Internet (see last page).

To suggest future Bulletin topics, or be included on the mailing list for future editions, please call Tawand Hodge, Office of Protected Resources, at (301) 713-2319. Or mail your comments to the National Marine Fisheries Service, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910, Attn: MMPA Bulletin.

Working Sessions to Discuss Draft Fishing Regulations a Success

In late November and early December of last year, the Office of Protected Resources held two public working sessions to discuss draft regulations to implement provisions in the MMPA to govern interactions between marine mammals and commercial fishing operations (sec. 118 of the MMPA).

The broad range of public participation at the sessions provided diverse, constructive feedback on the draft regulations. The sessions were held in Silver Spring, MD and Seattle, WA and were attended by representatives of fishing organizations, environmental groups, inter-state fishery commissions, coastal states, Congressional staff, and the Marine Mammal Commission.



Discussions focused, among other things, on how fisheries would be classified under the new amendments. The majority of attendees supported a shift from criteria that classified fisheries using a rate of take of marine mammals per twenty days of fishing, to criteria that is based on each fishery's annual serious injury and mortality level for each stock relative to its Potential Biological Removal (PBR) level. However, there was concern that fisheries could be classified incorrectly if insufficient information were available regarding a stock's population size or level of take due to commercial fishing.

The definition of the Zero Mortality Rate Goal (ZMRG) was also debated, and most agreed that if the total take from a stock was less than 10% of its PBR, that stock could be said to have reached "an insignificant level of serious injury and mortality approaching a zero rate". However, because NMFS must assess each fishery's progress in achieving the ZMRG, many felt that it must be defined on a by-fishery basis. The Seattle group recommended that this level be somewhere between 1% and 10% of a stock's PBR, depending on the number of fisheries interacting with each stock.

Other feedback provided during the sessions will be incorporated into the proposed regulations implementing sec. 118, due to be published in March or April. For more information, contact Vicki Cornish, (301) 713-2322.

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Office Director: William W. Fox, Jr.
Deputy Office Director: Patricia Montanio
Editors: Laurel Bryant and Vicki Cornish

Prohibition on Intentional Lethal Takes of Marine Mammals In Effect

The final rule implementing the statutory prohibition on intentional killing of marine mammals in the course of commercial fishing operations will be effective on March 3, 1995. The rule makes obsolete current regulations that permit fishers to intentionally kill marine mammals to protect their catch or gear. Persons found to be in violation of this prohibition are subject to a fine of up to $20,000.

There will be an exception for actions taken by fishers that are imminently necessary to save the life of a person, provided that the killing is reported to the National Marine Fisheries Service within 48 hours after the end of the fishing trip in which the take occurred.

Killing marine mammals will be prohibited, yet non-lethal measures may still be used to deter marine mammals from damaging fishing gear or catch. The MMPA requires NMFS to develop guidelines for the safe deterrence of marine mammals. It also requires NMFS to prohibit deterrence measures that have a significant adverse effect on marine mammals. The guidelines and the list of prohibited measures are in preparation, and it is hoped that a proposed rule with guidelines and prohibited measures will be published in the spring.

For information on the intentional lethal take prohibition, contact Dean Wilkinson, (301) 713-2319. For information on non-lethal deterrence guidelines, contact Ken Hollingshead, (301) 713-2055, or Dan Morris, NMFS Northeast Region, (508) 281-9388.

Bering Sea Ecosystem Study is Underway

NMFS is developing a plan to study the Bering Sea ecosystem. The purpose of the study is to resolve uncertainties concerning the causes of declines in marine mammals, sea birds and other living resources in that ecosystem. The study will consider the research recommendations developed by previous workshops, including research on subsistence use of living resources and ways to provide for their sustained use. An important component of the study will be the involvement of Alaska Native groups in the development of the plan and the incorporation of traditional local knowledge.

NMFS is currently working on the first draft of the plan. The plan will then be revised based on comments by the Marine Mammal Commission, the State of Alaska, the U.S. Fish and Wildlife Service, Alaska Native organizations, and others. A series of workshops will be held in early 1995 to finalize the plan and determine how the research will be conducted.

For more information, contact Ned Cyr, (301) 713-2319.

Public Invited to Comment on Investigation of Pinniped Impacts on Salmonids and Coastal Ecosystems

NMFS will establish a working group comprised of Federal and state biologists to investigate the effects that California sea lions and Pacific harbor seals are having on salmonid stocks and coastal ecosystems of Washington, Oregon and California. Following the working group's investigation, NMFS will begin discussions with the Pacific States Marine Fisheries Commission and will produce a report for Congress addressing issues or problems identified in the investigation. NMFS will also make recommendations to address such issues. The report will be available for public comment for 90 days.

The public is invited to attend the first working group meeting to get an explanation of the proposed investigation and report process, provide statements and comments to the working group, and answer inquiries for information. The meeting will be held at the NMFS Northwest Fisheries Science Center in Seattle, WA, on February 27, 1995 from 11:00 to 12:00 AM. For further information, contact Dr. Linda Jones, NMFS Northwest Fisheries Science Center, (206) 860-3200.

Marine Mammals and Gillnets

Although most marine mammal mortalities in the U.S. occur in gillnets, NMFS realizes that not all gillnet fisheries are the same. Over the last several years, NMFS has reclassified many gillnet fisheries because they were shown to have much lower mortality rates than first suspected. Based on data collected by observers, NMFS is now able to make better decisions on how to classify these fisheries under the 1994 amendments to the MMPA, and can work with fishers to identify fishing methods and modifications in gillnet gear that may result in reduced mortalities of marine mammals.

Description of the Gear. Gillnets are used to catch a variety of fish species in the U.S.. In Alaska and the Northwest, they are used primarily to target salmon. In both the Atlantic and Pacific, they are used to target swordfish, tuna, and shark in deep water, and smaller finfish and groundfish in coastal waters. Gillnets can be set in a variety of ways. They can be fished at the ocean surface, in midwater, or on the bottom. They can drift freely in open water, or can be set with one or both ends anchored to either the shore, a buoy, or a fishing vessel.

Mesh sizes used by gillnetters vary greatly, depending upon the size of the fish being targeted. The length of the net also varies. In general, fishery managers set regulations for each gillnet fishery specifying the range of mesh sizes allowed, the length of the net, and the number of nets that can be fished.

Types of Interactions. There are generally three types of direct "interactions" between marine mammals and gillnets. The first, entanglement in fishing gear, occurs when marine mammals are in the same area as gillnets, and, for reasons unknown, they do not detect the presence of the nets and/or avoid them. Marine mammals then become entangled in the gear, and are generally unable to disentangle themselves before the nets are hauled in. In some cases, though, gillnetters are able to remove entangled marine mammals and release the animals alive. This may depend on how frequently the nets are tended, or how severely the animals are entangled. Entanglement may also occur when fishing gear is discarded illegally.

The second type of interaction occurs when marine mammals are preying on the same fish species targeted by gillnetters, and are attracted to the nets as an easy source of food. "Stealing" entangled fish from gear may result in damage to the nets and reductions in catch. The third type of interaction, deterrence, is the intentional use of firearms, "seal bombs", or other devices to scare marine mammals away from fishing gear. Of course, not all fishers use deterrence to keep marine mammals away from fishing gear, as many consider damage to nets and loss of catch a "cost of doing business".

Frequency of Interactions. Updated information on the type and frequency of marine mammal mortalities with gillnets has come from observer programs, fisher's logbooks, and stranding data. Of these, observers provide the most reliable data on frequency of marine mammal interactions. Observer programs require that persons receive intensive training in the identification and sampling of marine mammals before being placed on fishing vessels, and that they demonstrate competency in objective data collection.

NMFS has placed observers in more than a dozen gillnet fisheries in the U.S.. These include the Alaska Prince William Sound salmon set and drift gillnet fisheries, the Alaska Peninsula salmon drift gillnet fishery, the Washington and Oregon salmon drift gillnet fisheries in Willapa Bay, Grays Harbor, and Lower Columbia River, the California set and drift gillnet fisheries, the Gulf of Maine sink gillnet fishery and the Atlantic pelagic drift gillnet fishery.

Data collected by NMFS observers from 1990 to the present indicate that the impacts of gillnet fisheries on local marine mammal populations vary greatly, depending on the depth of the gear, the mesh size, the location of fishing activity, and the season.

Classification of Fisheries. The Marine Mammal Exemption Program, established by the 1988 amendments to the MMPA, required NMFS to classify fisheries according to the frequency of interactions between marine mammals and fisheries. Having little information regarding gillnet fisheries, NMFS initially classified the majority of these as either Category I or II fisheries, suspecting that these fisheries had either a frequent or occasional take of marine mammals, respectively.

Based on observer program data, and information submitted in fishers' logbooks, NMFS has been able to reallocate observer resources to focus on fisheries or fishery "hot spots" which have the highest levels of marine mammal interactions. NMFS has also reclassified a number of gillnet fisheries which were initially suspected of having a high level of mortalities, yet were found, through the collection of observer data, to have only rare occurrences of mortalities.

Some groups have suggested that NMFS propose a new system of classifying fisheries, under the 1994 amendments to the MMPA, based on the number of serious injuries and mortalities relative to each marine mammal stock's status or abundance. Information collected during the Interim Exemption will help us to reclassify fisheries under this new system based on better estimates of fishing mortality in gillnet gear. It will also help us to correctly classify gillnet fisheries when data are incomplete and to recommend fishing methods that will reduce the number of marine mammals killed each year in gillnet fisheries.

For information, contact Vicki Cornish at (301) 713-2322.

A Process for Forming Take Reduction Teams is Being Developed

The 1994 amendments to the Marine Mammal Protection Act require that NMFS form take reduction teams shortly after the release of final Stock Assessment Reports. These teams will develop plans for reducing the incidental take of marine mammals in certain commercial fisheries in order to to assist in the recovery or prevent the depletion of strategic stocks.

Strategic stocks are those marine mammal stocks that have a level of human-caused mortality that is higher than the stock's calculated Potential Biological Removal (PBR) level. Strategic stocks are also those stocks that are listed as endangered or threatened under the Endangered Species Act, designated as depleted under the MMPA, or that are declining and likely to be listed in the near future.

A process to develop take reduction teams and to ensure that teams are effective in developing a plan that considers all available options, both voluntary and mandatory, for reducing incidental takes is currently being developed. The use of professionals to help facilitate team meetings and guide the process of plan development is being considered to help ensure the success of these teams.

Take reduction teams for New England harbor porpoise and Mid-Atlantic coastal bottlenose dolphins will be convened as soon as possible. They will serve as "pilot teams" to help NMFS develop standardized guidelines to be followed by future teams in other areas and for other stocks and fisheries.

In general, all efforts will be coordinated by NMFS Regional Offices in consultation with the Office of Protected Resources, with assistance from professional facilitators. For information, contact Nancy Daves, (301) 713-2319.

NMFS and the MMPA Bulletin are On-Line

NMFS has a Home Page on the Internet World Wide Web. Access to the Web is accomplished by down loading one of the several Web browsers from various FTP sites. MOSAIC, a popular Web browser, can be found at FTP ftp.ncsa.uiuc.edu. The instructions are posted there for both Mac and DOS operating systems (the DOS version runs under Windows in 32 bit mode). The freeware software for WIN32 is also available at that site. There are several other browsers available as shareware or limited freeware. Once you have installed a Web browser you can contatct the NMFS home page at: http://kingfish.ssp.nmfs.gov.

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National Marine Fisheries Service
Office of Protected Resources
1315 East-West Highway
Silver Spring, MD 20910